

NOTICE: Summary decisions issued by the Appeals Court pursuant to its rule 1:28, as amended by 73 Mass. App. Ct. 1001 (2009), are primarily directed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, such decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28 issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent. See Chace v. Curran, 71 Mass. App. Ct. 258, 260 n.4 (2008).

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

15-P-1123

BODHISATTVA SKANDHA

vs.

WILLIAM SALTZMAN.

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

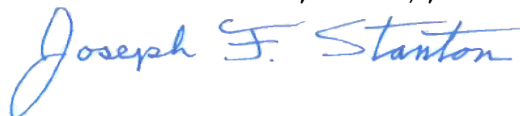
The plaintiff, Bodhisattva Skandha, an inmate at the Massachusetts Correctional Institution at Norfolk, filed a complaint in the Superior Court seeking certain public records of the Department of Correction (department) pursuant to G. L. c. 66, § 10, that were denied to him on the basis of personal safety and security. The named defendant, William Saltzman, is counsel for the department. Saltzman moved to dismiss, arguing that he is not a proper party under the statute. The judge agreed, and allowed the motion. Skandha appeals from the judgment of dismissal.

General Laws c. 66, § 10(b), as appearing in St. 1973, c. 1050, § 3, directs the "custodian of a public record" to comply with a public record request under the statute. That person is defined as "the governmental officer or employee who

in the normal course of his or her duties has access to or control of public records." 950 Code Mass. Regs. § 32.03 (2003). It is undisputed that Saltzman is the department attorney who was assigned to respond to Skandha's original request, not the department's supervisor of public records. That official, Shawn A. Williams, is acknowledged in Skandha's complaint. We therefore agree with the motion judge that Saltzman is not a proper party to the action.¹

Judgment affirmed.

By the Court (Trainor,
Rubin & Blake, JJ.²),



Clerk

Entered: April 11, 2016.

¹ We assume, without deciding, that this case is not moot, notwithstanding Skandha's assertion in his reply brief that he has "received all the information he sought."

² The panelists are listed in order of seniority.